

REMARKS

Claims 10-22 and 33-51 are pending. Claims 40-41, 10-22, and 33-39 are rejected under 35 U.S.C. §103(a). Claims 42-51 are rejected under 35 U.S.C. §102(e). Claims 1-9 and 23-32 are cancelled without prejudice.

Claims 40-41, 10-22, and 33-39 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mantha et al. (U.S. Pat. No. 7,000,174) in view of Hawkins et al. (U.S. Pub. No. 2006/0205432). Examiner admits Mantha et al. fail to disclose “establishing communication in a first mode with the transmitting end; switching to a second mode of communication with the transmitting end after communication is established” (claim 40), “a controller arranged to establish communication in a first mode with another data communication apparatus, the controller arranged to switch to communication in a second mode with said another data communication apparatus after communication is established” (claims 10 and 16), and “establishing communication in a first mode with the receiving end; switching to a second mode of communication with the receiving end after communication is established” (claim 33). Examiner relies on the disclosure of Hawkins et al. at “page 6, section 0072, lines 3-12; section 0083, lines 3-11; section 0084, lines 1-3” for the foregoing limitations. (Applicants believe Examiner intended to cite section 0082 rather than section 0072.) These sections of Hawkins et al. generally describe a switch configuration of Figure 5B, which Applicants believe were first added as a continuation-in-part filed February 14, 2006. The instant application claims priority to numerous provisional applications having priority dates from June 9, 2000, through August 29, 2000. Applicants respectfully submit, therefore, that the cited disclosure of Hawkins et al. is not prior art to the instant application.

Moreover, the cited reference of Hawkins et al. includes a priority claim to U.S. Patent Application No. 09/374,095, filed August 12, 1999, now U.S. Patent No. 6,516,202. The '202 patent is the only reference having an earlier priority date than the instant application. However, the '202 patent has a different Figure 5B and does not include any of the sections cited by

Examiner from Hawkins et al. Thus, Applicants respectfully submit that claims 40-41, 10-22, and 33-39 are patentable under 35 U.S.C. §103(a).

Claims 42-51 are rejected under 35 U.S.C. §102(e) as being anticipated by Mantha et al. (U.S. Pat. No. 7,000,174). Independent claim 42 recites "encoding data by a first method to establish communication with a remote receiver; **encoding data by a second method to communicate with the remote receiver after communication is established.**" (emphasis added). Independent claim 46 recites "encoding data by a first method to establish communication with a remote transmitter; **encoding data by a second method to communicate with the remote transmitter after communication is established.**" (emphasis added). These features of the present invention are described in detail at page 10, lines 3-14, and Figure 6A. Examiner cites col. 2, lines 29-40 (type-I) and col. 2, lines 42-57 (type-II) of Mantha et al. as the first and second encoding methods of claims 42 and 46. The Type I and Type-II methods of Mantha et al. are independent methods. There is no teaching or suggestion that they might be used together as required by claims 42 and 46. Moreover, claims 42 and 46 require encoding data by a first method to establish communication and encoding data by a second method after communication is established. These features of the present invention are not disclosed by the cited reference. Thus, independent claims 42 and 46 and their respective depending claims are patentable under 35 U.S.C. §102(e) over Mantha et al.

In view of the foregoing, applicants respectfully request reconsideration and allowance of claims 10-22 and 33-51. If Examiner finds any issue that is unresolved, please call Applicants' attorney by dialing the telephone number printed below.

Respectfully submitted,



Robert N. Rountree
Attorney for Applicants
Reg. No. 39,347

Robert N. Rountree, LLC
70360 Highway 69
Cotopaxi, CO 81223
Phone/Fax: (719) 783-0990